

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re AMERICAN REALTY CAPITAL PROPERTIES, INC. LITIGATION	: Civil Action No. 1:15-mc-00040-AKH
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	: <u>CLASS ACTION</u>
	:
This Document Relates To:	: [PROPOSED] ORDER RE NOTICE OF
	: FEES INCURRED BY CLAIMANTS’
ALL ACTIONS.	: APPOINTED COUNSEL
	:
	X

Upon consideration of the Notice of Fees Incurred By Claimants’ Appointed Counsel and Request To Set Deadline For Objections By Certain Claimants (“Notice”), the Court makes the following findings:

FINDINGS OF FACT

1. By Order dated January 18, 2022, this Court appointed Kevin E. O’Malley and the law firm of Gallagher & Kennedy, P.A. (“G&K”) as lead counsel, and Barry M. Bordetsky, Law Offices of Barry M. Bordetsky, as local counsel (together “Claimants’ Counsel”), to represent the common interests of fourteen Claimants in pursuing claims for settlement compensation that had been denied by the Claims Administrator (the “Disputed Claims”).

2. The Court instructed that G&K “shall, as necessary and appropriate, work with Samuel B. Edwards, Shepherd, Smith, Edwards & Kantas LLP, who has appeared on behalf of Claimants Steven Shore and Dawn Impellizzeri, and Glenn Gitomer, who has appeared on behalf of Claimant Derrick Wilson.”

3. The Court approved Claimants' Counsel billing each of the Claimants on a monthly basis, based on each Claimant's respective pro rata share of the total amount of the

Disputed Claims, the fees to be secured by any recovery. Fees were to be calculated on a lodestar basis, applying the standard hourly rates for Mr. O'Malley and any other lawyers or legal professionals assisting him.

4. The Court further ordered that Claimants not separately and directly represented by G&K could, "at their option," seek Court approval of fees billed to them "as being **(not?)** unreasonably duplicative."

5. As a result of the efforts of Claimant's Counsel, the Disputed Claims have been **approved for payment in full under the terms of the settlement in this action, in a total amount exceeding \$1.4 million. (By an order?)**

6. In the Notice, Claimants' Counsel has submitted documentation of the fees incurred in their representation of Claimants, and the pro rata amount to be paid by each Claimant.

THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED as follows:

1. Those Claimants not separately and directly represented by G&K may have fourteen (14) days from the date of this Order to file objections.

2. Once the deadline for submitting objections has passed, or the Court resolves any objections submitted, the Claims Administrator shall issue settlement payments directly to Claimants after deducting each Claimants' pro rata share of the fees, in the amounts set forth in the Notice.

3. The Claims Administrator shall remit payment for fees incurred by Claimants' Counsel to G&K, which in turn will remit Mr. Bordetsky's share of those fees to him.

* * *

ORDER

IT IS SO ORDERED.

DATED: March 30, 2022

/s/ Alvin K. Hellerstein
THE HONORABLE ALVIN K. HELLERSTEIN
UNITED STATES DISTRICT JUDGE